

REMARKS

By this Amendment, Applicant amends claims 1, 13, and 17. Claims 1-20 remain currently pending.

In the final Office Action, the Examiner rejected claims 1-3, 8, 9, 14, 15, and 17-19 under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent Application Publication No. JP09-190306 to Mochizuki ("Mochizuki") in view of Japanese Patent Application Publication No. JP05-083324 to Yasuda ("Yasuda") and U.S. Patent Application Publication No. 2001/0022912 to Miyasaka et al. ("Miyasaka");¹ rejected claims 4-6, 16, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Mochizuki in view of Yasuda, Miyasaka, and Japanese Patent Application Publication No. JP10-098605 to Kondo et al. ("Kondo"); and rejected claims 7 and 10-12 under 35 U.S.C. § 103(a) as being unpatentable over Mochizuki in view of Yasuda, Miyasaka, and U.S. Patent Application Publication No. 2002/0101443 to Yamaguchi et al. ("Yamaguchi").²

Applicant respectfully traverses the rejection of claims 1-3, 8, 9, 14, 15, and 17-19 under 35 U.S.C. § 103(a) as being unpatentable over Mochizuki in view of Yasuda and Miyasaka, because a *prima facie* case of obviousness has not been established.

To establish a *prima facie* case of obviousness based on a combination or suggestion of prior art, "Office personnel must articulate . . . a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of

¹ Although not indicated in the statement of the rejection at page 2 of the Office Action, the Examiner also rejected claim 13 at page 4 of the Office Action.

² The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

actual combination of the elements in a single prior art reference.” M.P.E.P. § 2143.A (8th edition, revision 6).

Independent claim 1, as amended,³ recites a combination including, for example,

a transmission unit configured to transmit one of first data and a command, the first data having first identification information, the command having second identification information for identifying the first data, wherein the first data and the command are incapable of being transmitted simultaneously; [and]

a second control unit configured to . . . control the transmission unit to interrupt a third transmission of second data having the first identification information not corresponding to the second identification information of the command and to start the second transmission if the transmission unit is transmitting the third transmission of the second data and the transmission unit has completed transmitting the first data.

Mochizuki fails to teach or suggest at least these features of amended claim 1. The Examiner concedes that “Mochizuki does not expressly disclose . . . to control the transmission unit to interrupt a third transmission of second [data having the first identification information not corresponding to the second] identification information of the command and to start the second transmission if the transmission unit is transmitting the third transmission of the second data and the transmission unit has completed transmitting the first data.” (Office Action at 3.)

In fact, the Examiner explicitly states that, in Mochizuki, “obviously the command generated cannot be transmitted until transmission completion of the first data because of queuing in spooler.” (Office Action at 3.) Thus, the Examiner appears to concede that Mochizuki teaches away from the above recited features of claim 1, which require

³ Support for the amendments may be found at, for example, pages 9 and 21 of the specification.

“to start the second transmission if the transmission unit is transmitting the third transmission of the second data and the transmission unit has completed transmitting the first data,” as recited in claim 1 (emphasis added).

Further, Mochizuki fails to teach or suggest “a transmission unit configured to transmit one of first data and a command, the first data having first identification information, the command having second identification information for identifying the first data, wherein the first data and the command are incapable of being transmitted simultaneously,” as recited in amended claim 1 (emphasis added).

Yasuda fails to cure the deficiencies of Mochizuki. The Examiner alleges that “Yasuda teaches interrupting usual data transmission to start priority data transmission (abstract, paragraphs 0006-0007), which would have been obvious to one of ordinary skill in the art to recognize that in Mochizuki first transmission (first data) and second transmission (the command) can be given the same priority over the third transmission (second data).” (Office Action at 3.)

However, Yasuda's mere mention of priority data transmission does not constitute “a second control unit configured to . . . control the transmission unit to interrupt a third transmission of second data having the first identification information not corresponding to the second identification information of the command and to start the second transmission if the transmission unit is transmitting the third transmission of the second data and the transmission unit has completed transmitting the first data,” as recited in claim 1 (emphasis added).

In fact, Yasuda states a purpose “[t]o provide the data transmitter-receiver capable of sending data desired to be sent on emergency with interruption even during

data transmission.” Yasuda, Abstract, emphasis added. However, Yasuda’s teaching of emergency based transmission cannot constitute “a second control unit configured to . . . control the transmission unit to interrupt a third transmission of second data having the first identification information not corresponding to the second identification information of the command and to start the second transmission if the transmission unit is transmitting the third transmission of the second data and the transmission unit has completed transmitting the first data,” as recited in claim 1 (emphasis added).

Further, Yasuda also fails to teach or suggest “a transmission unit configured to transmit one of first data and a command, the first data having first identification information, the command having second identification information for identifying the first data, wherein the first data and the command are incapable of being transmitted simultaneously,” as recited in amended claim 1 (emphasis added).

Moreover, as explained above, Mochizuki teaches away from interrupting any data transmission. A person of ordinary skill would not have combined Mochizuki with Yasuda.

Miyasaka fails to cure the deficiencies of Mochizuki and Yasuda. The Examiner alleges that “Miyasaka et al. teaches control command received by printer must contain information identifying what specific print data received as well (paragraphs 0070, 0075).” (Office Action at 4.) However, even assuming the Examiner’s allegation is correct, which Applicant does not concede, Miyasaka fails to teach or suggest at least the above recited features of amended claim 1.

Therefore, Mochizuki, Yasuda, and Miyasaka, taken alone or in any reasonable combination, fail to teach or suggest all claim elements of claim 1. A *prima facie* case of

obviousness has not been established. Accordingly, Applicant respectfully requests withdrawal of the Section 103(a) rejection of amended claim 1.

Because claims 2, 3, 8, and 9 depend from claim 1, either directly or indirectly, Applicant also requests withdrawal of the Section 103(a) rejection of claims 2, 3, 8, and 9 for at least the same reasons stated above.

Further, independent claims 13 and 17, as amended, while of different scope, include similar recitations to those of amended claim 1. Amended claims 13 and 17 are therefore also allowable for at least the same reasons stated above with respect to amended claim 1. Applicant also requests withdrawal of the Section 103(a) rejection of claims 13 and 17 and their respective dependent claims 14-15 and 18-19.

Applicant respectfully traverses the rejection of claims 4-6, 16, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Mochizuki in view of Yasuda, Miyasaka, and Kondo, because a *prima facie* case of obviousness has not been established.

Claims 4-6 depend from amended claim 1. As set forth above, Mochizuki, Yasuda, and Miyasaka fail to teach or suggest the above listed claim elements as recited in amended claim 1. Kondo fails to cure the deficiencies of Mochizuki, Yasuda, and Miyasaka.

Kondo teaches that “[w]hen it is judged that it is [circuit] under use by S403, Pa which shows the threshold of whether to perform said demand priority Pr and priority transmission control is compared, and it judges whether priority reception is possible.” Kondo, para. [0031]. However, Kondo’s mere teaching of priority reception determination does not constitute the above recited features of amended claim 1 and required by claims 4-6.

Therefore, Mochizuki, Yasuda, Miyasaka, and Kondo, taken alone or in any reasonable combination, fail to teach or suggest all elements required by claims 4-6. A *prima facie* case of obviousness has not been established. Accordingly, Applicant respectfully requests withdrawal of the Section 103(a) rejection of claims 4-6.

Further, claim 16 depends from independent claim 13, and claim 20 depends from independent claim 17. Because claims 13 and 17, while of different scope, include similar recitations to those of amended claim 1, claims 13 and 17 are also allowable over Mochizuki in view of Yasuda, Miyasaka, and Kondo, for at least the same reasons stated above. Applicant therefore also requests withdrawal of the Section 103(a) rejection of claims 16 and 20 at least due to their dependence from an allowable base claim.

Applicant respectfully traverses the rejection of claims 7 and 10-12 under 35 U.S.C. § 103(a) as being unpatentable over Mochizuki in view of Yasuda, Miyasaka, and Yamaguchi, because a *prima facie* case of obviousness has not been established.

Claims 7 and 10-12 depend from claim 1, either directly or indirectly. The Examiner alleges that "Yamaguchi et al. teaches the transmission unit utilizes a radio communication technique called Bluetooth (paragraph 0024), . . . the command includes an image display command used to command the receiving apparatus to display an image of first image data included in the image data already transmitted to the receiving apparatus (abstract) . . . [and] the input unit designates the first image to display the image by the image display command if the input unit inputs an instruction to transmit the image display command (abstract)." (Office Action at 8-9.) Applicant respectfully disagrees.

However, even assuming the Examiner's allegation is correct, which Applicant does not concede, Yamaguchi fails to teach or suggest at least the above listed elements of amended claim 1 and as required by claims 7 and 10-12.

Therefore, Mochizuki, Yasuda, Miyasaka, and Yamaguchi fail to teach or suggest all elements required by claims 7 and 10-12. A *prima facie* case of obviousness has not been established. Accordingly, Applicant respectfully requests withdrawal of the Section 103(a) rejection of claims 7 and 10-12.


In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: 
Wenye Tan
Reg. No. 55,682